

1 "SEC. 18. Refunds. Surplus funds remaining in the treasury of the  
2 local warehouse board October first of each year shall be refunded to  
3 the owners as the board may direct, providing, however, that the pro-  
4 cedure and time and amount of such refund is approved by the secre-  
5 tary of agriculture and providing that where the amount paid by the  
6 owner was insufficient to meet the costs incurred in sealing, no refund  
7 shall be made to such owners.

1 "SEC. 19. Saving clause. Should any of the provisions of these sec-  
2 tions be held unconstitutional, those held constitutional shall remain  
3 in full force and effect."

House File 242. Approved April 15, 1935.

## CHAPTER 106

### TRADEMARK PROTECTION

S. F. 222

AN ACT to protect trademark owners, distributors and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trademark, brand or name.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Subdivision 1. No contract relating to the sale or resale  
2 of a commodity which bears, or the label or content of which bears,  
3 the trademark, brand, or name of the producer or owner of such com-  
4 modity and which is in fair and open competition with commodities  
5 of the same general class produced by others shall be deemed in viola-  
6 tion of any law of the state of Iowa by reason of any of the following  
7 provisions which may be contained in such contract:

8 a. That the buyer will not resell such commodity except at the price  
9 stipulated by the vendor.

10 b. That the vendee or producer require in delivery to whom he may  
11 resell such commodity to agree that he will not, in turn, resell except  
12 at the price stipulated by such vendor or by such vendee.

13 2. Such provisions in any contract shall be deemed to contain or  
14 imply conditions that such commodity may be resold without refer-  
15 ence to such agreement in the following cases:

16 a. In closing out the owner's stock for the purpose of discontinuing  
17 delivering such commodity.

18 b. When the goods are damaged or deteriorated in quality, and  
19 notice is given to the public thereof.

20 c. By any officer acting under the orders of any court.

1 SEC. 2. Wilfully and knowingly advertising, offering for sale or  
2 selling any commodity at less than the price stipulated in any contract  
3 entered into pursuant to the provisions of section one (1) of this act,  
4 whether the person so advertising, offering for sale or selling is or is  
5 not a party to such contract, is unfair competition and is actionable  
6 at the suit of any person damaged thereby.

1 SEC. 3. This act shall not apply to any contract or agreement be-  
2 tween producers or between wholesalers or between retailers as to  
3 sale or resale prices.

1 SEC. 4. The following terms, as used in this act, are hereby defined  
2 as follows:

3 "Producer" means grower, baker, maker, manufacturer or publisher.  
4 "Commodity" means any subject of commerce.

1 SEC. 5. If any provision of this act is declared unconstitutional  
2 it is the intent of the legislature that the remaining portions thereof  
3 shall not be affected but that such remaining portions remain in full  
4 force and effect.

1 SEC. 6. All acts or parts of acts inconsistent herewith are hereby  
2 repealed.

Senate File 222. Approved May 16, 1935.

## CHAPTER 107

### PARTY IN ACTIONS. STATE OF IOWA

S. F. 299

AN ACT providing that the state of Iowa may be made a party in actions involving the title to or partition of real estate, the foreclosure of mortgages and liens upon real estate, and the determination of the priority of liens against real estate; and providing the method of service of notice and fixing the status of the state as a party.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Upon the conditions herein provided for the protection  
2 of the state of Iowa, the consent of the state of Iowa be and it is hereby  
3 given, to be made a party in any suit or action which is now pending  
4 or which may hereafter be brought in any of the district courts of  
5 Iowa, any of the United States district courts within the state of Iowa  
6 or in any other court of or in Iowa having jurisdiction of the subject  
7 matter, involving the title to real estate, the partition of real estate,  
8 the foreclosure of liens or mortgages against real estate or the de-  
9 termination of the priorities of liens or claims against real estate,  
10 for the purpose of obtaining an adjudication touching or pertaining  
11 to any mortgage or other lien or claim which the state of Iowa may  
12 have or claim to the real estate involved.

1 SEC. 2. Service upon the state of Iowa shall be made by serving a  
2 copy of the original notice with a copy of the petition upon the county  
3 attorney for the county, or counties, in which the real estate is located,  
4 and by sending a copy of the original notice and petition by registered  
5 mail to the attorney general of Iowa, at Des Moines, Iowa, at least  
6 twenty days before the first day of the next term of court.

1 SEC. 3. After compliance with the preceding sections, the state of  
2 Iowa shall have the same standing as any other defendant and any  
3 and all orders, judgments or decrees rendered and entered shall be  
4 binding on the state of Iowa, the same as on any other defendant, and  
5 the state of Iowa shall have the same rights with respect thereto as any  
6 other defendant similarly situated.

1 SEC. 4. This act is deemed of immediate importance and shall be in  
2 force and effect from and after its passage and publication in the